THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.18917 OF 2006

Date: 26.12.2007

Between:

Ravuri Lakshmi and others

. . .Petitioners

AND

District Collector,
West Godavari District, Eluru and another

. . .Respondents

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.18917 OF 2006

ORDER:

This writ petition is filed for a writ of mandamus to declare notification, dated 07.05.2006 issued under Section 4(1) of the Land Acquisition Act, 1894 (for short 'the Act') and the consequential notices issued under Sections 9(3) and 10 of the Act as illegal.

The lands belonging to the petitioners were notified for acquisition by the impugned notification issued under Section 4(1) of the Act. The petitioners participated in the enquiry held by respondent No.2. By endorsement, dated 19.06.2006, respondent No.2 evidently rejected the objections raised by the petitioners to the proposed acquisition and later, declaration under Section 6 of the Act was issued. After receiving notices under Sections 9(3) and 10 of the Act, the petitioners filed the present writ petition.

In the affidavit filed in support of the writ petition, the petitioners inter alia averred that they are all small farmers and that there are alternative lands belonging to the Government available, which could be conveniently used for providing house sites to the poor people. In the reply affidavit, they have given details of various Government lands said to be available for being utilized for the proposed purpose.

In the counter-affidavit filed by respondent No.2, it is stated that on 17.06.2006, enquiry under Section 5A of the Act was held and that the petitioners attended the said enquiry and the objections raised by them were rejected by respondent No.2 vide his endorsement, dated 19.06.2006.

At the hearing, Sri K.S.Murthy, learned counsel for the petitioners drew my attention to Circular, dated 22.04.2006 issued by Government of Andhra Pradesh, wherein certain guidelines are issued and clause (2) of paragraph 2 of the said Circular provides that Acquisition/Purchase for House sites of private lands shall be undertaken only when there is no government land available in the Village for house sites for identified beneficiaries. On the basis of the said Circular and on the strength of the details given in the reply affidavit, learned counsel submitted that in view of availability of Government lands, the proposed acquisition of the petitioners lands is wholly illegal. Learned counsel further submitted that under Section 5A read with Section 3(c) of the Act, it is only the Collector, who is empowered to dispose of the objections raised by the petitioners and that on the own showing of respondent No.2 in his counter-affidavit, he rejected the objections by his endorsement, dated 19.06.2006. Learned counsel says that this is patently contrary to the provisions of the above mentioned provisions.

Learned Assistant Government Pleader fairly stated that it is only the Collector, who is vested with the power to reject the objections and the record does not reveal that the Collector passed any order rejecting the objections, apart from endorsement, dated 19.06.2006, made by respondent No.2, wherein the objections of the petitioners are purportedly rejected.

As I am satisfied that respondent No.1, who alone has the power to consider and dispose of the objections of the petitioners, has not passed any order, the declaration issued under Section 6 and subsequent notices issued under Sections 9(3) and 10 of the Act are liable to be set aside.

Accordingly, the writ petition is allowed. Declaration issued under Section 6 and published in the District Gazette on 03.07.2006 and notices issued under Sections 9(3) and 10 of the Act are quashed. The respondents are directed to hold enquiry under Section 5A of the Act afresh and consider all the objections of the petitioners, which are referred to in this writ petition and any other objections, which may be filed by the petitioners within a period of two weeks from today, after giving an opportunity of personal hearing to the petitioners. Respondent No.1 shall consider the same and pass an order before seeking to proceed further.

C.V.NAGARJUNA REDDY, J

26th DECEMBER, 2007

Note: furnish c.c. in four (4) days.

B/o

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